

EXHIBIT A

1 DAVID R. ONGARO, State Bar No. 154698
2 DAVID R. BURTT, State Bar No. 201220
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5 Four Embarcadero Center, Suite 2400
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Telephone: (415) 344-7000
Facsimile: (415) 344-7050

6 Attorneys for Defendant
7 STARBUCKS CORPORATION

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SANTA CRUZ

10
11 EMILEE CASS,
12 Plaintiff,
13 v.
14
15 STARBUCKS CORPORATION, a Washington
corporation; and DOES 1 to 50,
16 Defendant.

17
18 No. CV157104

**NOTICE TO ADVERSE PARTY OF
REMOVAL TO FEDERAL COURT**

19 TO THE CLERK OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND
20 FOR THE COUNTY OF SANTA CRUZ AND TO PLAINTIFF AND HER ATTORNEY OF
RECORD:

21 PLEASE TAKE NOTICE that on July 9, 2007, Defendant Starbucks Corporation
22 ("Starbucks") filed a Notice of Removal of such action with the Clerk of the United States
23 District Court for the Northern District of California (San Jose Division). Starbucks attaches
24 hereto as Exhibit 1 a copy of said Notice of Removal and all other papers filed with the Clerk of
25 the United States District Court for the Northern District of California. Starbucks also attaches
26 hereto as Exhibit 2 all papers presented by the Clerk of the United States District Court upon the
27 filing of the Notice of Removal.

1 PLEASE TAKE FURTHER NOTICE that, pursuant to 28 U.S.C. § 1446(d), the filing of
2 the Notice of Removal in the United States District Court, together with the filing of this Notice
3 with this Court, effects the removal of this action and, therefore, this Court may proceed no
4 further with this action unless and until the action is remanded.

5

6 DATED: July 10, 2007

PERKINS COIE LLP

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9

By: 
David R. Burtt

10

Attorneys for Defendant
STARBUCKS CORPORATION

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18177-0185/LEGAL13371154.1

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EXHIBIT 1

JS 44 - CAND (Rev. 11/04)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO)

FILING

I. (a) PLAINTIFFS

EMILEE CASS

CIVIL COVER SHEET**DEFENDANTS**STARBUCKS CORPORATION, a Washington Corporation,
and DOBS 1 to 50, inclusive(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Santa Cruz, California
(EXCEPT IN U.S. PLAINTIFF CASES)(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Gerald A. Emanuel, Hinkle, Jachimowicz, Pointer & Emanuel,
2007 West Hedding Street, Suite 100, San Jose, CA 95128

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED.ATTORNEYS (IF KNOWN)
David R. Ongaro, David R. Burt
Perkins Coie LLP
Four Embarcadero Center
San Francisco, CA 94111**II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

- | | |
|--|---|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF	PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. ORIGIN

- | | | | | | | |
|--|--|--|---|--|---|--|
| <input type="checkbox"/> Original Proceeding | <input checked="" type="checkbox"/> Removed from State Court | <input type="checkbox"/> Remanded from Appellate Court | <input type="checkbox"/> Reinstated or Reopened | <input type="checkbox"/> Transferred from Another district (specify) _____ | <input type="checkbox"/> Multidistrict Litigation | <input type="checkbox"/> Appeal to District Judge from Magistrate Judgment |
|--|--|--|---|--|---|--|

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance	PERSONAL INJURY	PERSONAL INJURY	422 Appeal 28 USC 158	400 State Reapportionment
120 Marine	310 Airplane	362 Personal Injury Med. Malpractice	420 Other Food & Drug	410 Antitrust
130 Miller Act	315 Airplane Product Liability	365 Personal Injury Product Liability	423 Withdrawal 28 USC 157	430 Banks and Banking
140 Negotiable Instrument	320 Assault Libel & Slander	368 Asbestos Personal Injury Product Liability	450 Commerce/ICC Rates/etc.	460 Deportation
150 Recovery of Overpayment & Enforcement of Judgment	330 Federal Employers Liability		470 Racketeer Influenced and Corrupt Organizations	
151 Medicare Act	340 Marine		820 Copyrights	810 Selective Service
152 Recovery of Defaulted Student Loans (Excl Veterans)	345 Marine Product Liability		830 Patent	850 Securities/Commodities/ Exchange
153 Recovery of Overpayment of Veteran's Benefits	350 Motor Vehicle		840 Trademark	875 Customer Challenge 12 USC 3410
160 Stockholders Suits	355 Motor Vehicle Product Liability		690 Other	891 Agricultural Acts
190 Other Contract	360 Other Personal Injury	370 Other Fraud	861 HIA (1985f)	892 Economic Stabilization Act
195 Contract Product Liability		371 Truth in Lending	862 Black Lung (923)	893 Environmental Matters
196 Franchise		380 Other Personal Property Damage	863 DWC/DIWV (405(g))	894 Energy Allocation Act
		385 Property Damage Product Liability	864 SSID Title XVI	895 Freedom of Information Act
			865 RSI (405(g))	900 Appeal of Fee
			710 Fair Labor Standards Act	Determination Under Equal Access to Justice
			720 Labor/Mgmt Relations	950 Constitutionality of State Statutes
			730 Labor/Mgmt Reporting & Disclosure Act	890 Other Statutory Actions
			740 Railway Labor Act	
			790 Other Labor Litigation	
			791 Emp. Ret. Inc. Security Act	
			870 Taxes (U.S. Plaintiff or Defendant)	
			871 IRS - Third Party 26 USC 7609	

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.
DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY) 28 U.S.C. sections 1332 and 1441(b); Plaintiff and Defendant are citizens of different states and the amount in controversy exceeds \$75,000.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AN "X" IN ONE BOX ONLY) SAN FRANCISCO/OAKLAND SAN JOSE

DATE

7/9/07

SIGNATURE OF ATTORNEY OF RECORD

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44
Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs - Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

V. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases. Date and Attorney Signature.

Date and Attorney Signature. Date and sign the civil cover sheet.

ORIGINAL
FILED

07 JUL -9 PM 3:40

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA S.D.

1 DAVID R. ONGARO, State Bar No. 154698
2 DAVID R. BURTT, State Bar No. 201220
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8 Facsimile: (415) 344-7050

9
10 Attorneys for Defendant
11 STARBUCKS CORPORATION

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14 SAN JOSE DIVISION

15 C 07 03549 PVT

16 Case No.

17 NOTICE OF REMOVAL OF ACTION
18 UNDER 28 U.S.C. § 1441(b)

19 EMILEE CASS,

20 Plaintiff,

21 v.

22 STARBUCKS CORPORATION, a Washington
23 corporation, and DOES 1 to 50, inclusive,

24 Defendants.

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1 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

2 PLEASE TAKE NOTICE that Defendant Starbucks Corporation (hereafter "Starbucks"),
3 by and through its undersigned counsel, hereby removes this action to the United States District
4 Court for the Northern District of California pursuant to 28 U.S.C. §§ 1441 and 1446, asserting
5 original federal jurisdiction under 28 U.S.C. § 1332(a). Removal is proper for the following
6 reasons.

7 **BACKGROUND**

8 1. On or about May 17, 2007, plaintiff Emilee Cass ("Plaintiff") commenced an
9 action in the Superior Court of the State of California, County of Santa Cruz, entitled *Emilee*
10 *Cass v. Starbucks Corporation, a Washington corporation and DOES 1 to 50*, Case No.
11 CV157104 ("Complaint"). A copy of the Summons and Complaint are attached as Exhibit A.

12 **TIMELINESS OF REMOVAL**

13 2. Plaintiff served Starbucks with the Summons and Complaint on June 8, 2007.

14 3. On July 9, 2007, Starbucks filed its Answer in state court. The Answer is attached
15 as Exhibit B.

16 4. Removal is timely because Starbucks filed it within thirty (30) days of its first
17 receipt of a copy of the Summons and Complaint in this matter. 28 U.S.C. § 1446(b).

18 **DIVERSITY JURISDICTION**

19 5. The Court has original jurisdiction of this action under 28 U.S.C. § 1332
20 (diversity jurisdiction). As set forth below, this action is removable, pursuant to the provisions of
21 28 U.S.C. § 1441(a), as (1) Plaintiff is a citizen of a State different from that of Starbucks, the
22 only named defendant in this action, and (2) it is more likely than not that the matter in
23 controversy for the individual claims exceeds the sum or value of \$75,000.

24 **Diverse Citizenship of the Parties**

25 6. *Plaintiff's Citizenship.* Starbucks is informed and believes and on that basis
26 alleges that Plaintiff, at the time she commenced her action, was and still is a citizen of the State
27 of California.

28

1 7. *Defendant's Citizenship.* Pursuant to 28 U.S.C. § 1332(c), "a corporation shall be
2 deemed to be a citizen of any State by which it has been incorporated and of the State where it
3 has its principal place of business." Starbucks, at the time Plaintiff commenced this action, was,
4 and still is, a corporation incorporated under the laws of Washington, with its principal place of
5 business located in Seattle, Washington, and thus was and is a citizen of Washington.

6 8. *Doe Defendants.* Pursuant to 28 U.S.C. § 1441(a), the residence of fictitious and
7 unknown defendants should be disregarded for purposes of establishing removal jurisdiction
8 under 28 U.S.C. § 1332. *Fristos v. Reynolds Metals Co.*, 615 F.2d 1209, 1213 (9th Cir. 1980)
9 (unnamed defendants are not required to join in a removal petition). Thus, the existence of Doe
10 defendants one through fifty, inclusive, does not deprive this Court of jurisdiction.

Amount in Controversy

12 9. This Court has original jurisdiction over this class action because, as set forth
13 below, the alleged amount in controversy for the individual named plaintiff more likely than not
14 exceeds \$75,000. 28 U.S.C. § 1332.

15 10. Plaintiff's requested relief includes punitive and exemplary damages pursuant to
16 California Civil Code § 3294 and Government Code § 12940 for each of her four claims. *See*
17 Complaint at ¶¶ 25, 30, 37, and 44. Plaintiff also requests damages for emotional distress and
18 anguish. *Id.* at ¶¶ 23, 29, 36, and 43. In addition, Plaintiff requests an award of attorneys' fees
19 pursuant to Government Code § 12965(b) for each claim. *Id.* at ¶¶ 25, 31, 38 and 45. Plaintiff
20 further alleges that she has suffered compensatory damages for lost wages and employee benefits,
21 including retirement benefits. *Id.* at ¶ 12. These extensive damages sought by Plaintiff exceed
22 the minimum jurisdictional amount of \$75,000.

23 11. Because diversity of citizenship exists, Plaintiff being a citizen of the State of
24 California and Starbucks being a citizen of the State of Washington, and because the amount in
25 controversy for Plaintiff more likely than not exceeds seventy-five thousand dollars (\$75,000),
26 pursuant to 28 U.S.C. §§ 1332(a), this Court has original jurisdiction of the action. This action is
27 therefore a proper one for removal to this Court.

INTRADISTRICT ASSIGNMENT

2 12. Pursuant to 28 U.S.C. §§ 1441 and 1446(a), assignment to the United States
3 District Court for the Northern District of California (San Jose Division) is proper because
4 Plaintiff filed the action being removed in the Superior Court of California, County of Santa
5 Cruz.

NOTICE OF REMOVAL

7 13. Pursuant to 28 U.S.C. § 1446(d), Starbucks will promptly serve on Plaintiff and
8 file with the Superior Court a “Notice to Adverse Party of Removal to Federal Court.” Pursuant
9 to Federal Rule of Civil Procedure 5(d), Starbucks will also file with this Court a “Certificate of
10 Service of Notice to Adverse Party of Removal to Federal Court.”

11 WHEREFORE, Starbucks requests that this Court consider this Notice of Removal as
12 provided by law governing the removal of cases to this Court, that this Court take such steps as
13 are necessary to achieve the removal of this matter to this Court from the Santa Cruz County
14 Superior Court, and that this Court will make such other orders as may be appropriate to effect
15 the preparation and filing of a true record in this cause of all proceedings that may have been had
16 in the state court action.

17

18 DATED: July 9, 2007

PERKINS COIE LLP

19

By:

David R. Burtt

21

Attorneys for Defendant

23

24

18177-0185/LEGAL13370990.1

EXHIBIT A

**SUMMONS
(CITACION JUDICIAL)**

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
STARBUCKS CORPORATION, a Washington Corporation, and DOES
1-50,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
EMILEE CASS

SUM-100
 FOR COURT USE ONLY
 (SOLO PARA USO DE LA CORTE)

FILED

MAY 15 2007

ALEX CALVO, CLERK
 BY MICHELLE IRIS
 DEPUTY, SANTA CRUZ COUNTY

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/seithelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/seithelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/seithelp/espanol), en la biblioteca de libros de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/seithelp/espanol) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CRUZ
 701 Ocean Street
 Santa Cruz, CA 95060**

CASE NUMBER:
 (Número del Caso): **CV 157104**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Gerald A. Emanuel/Amy Carlson (Bar # SBN 61049/213294)

Phone No. (408) 246-5500

HINKLE, JACHIMOWICZ, POINTER & EMANUEL

Fax No. (408) 246-1051

2007 West Hedding Street, Suite 100, San Jose, CA 95128 **ALEX CALVO**

MICHELLE IRIS

DATE:
 (Fecha)

MAY 15 2007

Clerk, by _____
 (Secretario)

Deputy
 (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify): **Starbucks Corporation, A Washington Corporation**

- under: CCP 416.10 (corporation)
 CCP 416.20 (defunct corporation)
 CCP 416.40 (association or partnership)
 other (specify): **6-8-07**

- CCP 416.60 (minor)
 CCP 416.70 (conservatee)
 CCP 416.90 (authorized person)

1 Gerald A. Emanuel (SBN 61049)
2 Amy Carlson (SBN 213294)
3 HINKLE, JACHIMOWICZ, POINTER & EMANUEL
4 2007 West Hedding Street, Suite 100
5 San Jose, California 95128
6 Telephone: (408) 246-5500
7 Facsimile: (408) 246-1051

8 Attorneys for Plaintiff
9 EMILEE CASS

F I L E D

MAY 15 2007

ALEX CALVO, CLERK
BY MICHELLE IRIS
DEPUTY, SANTA CRUZ COUNTY

SUPERIOR COURT OF CALIFORNIA
SANTA CRUZ COUNTY

10 EMILEE CASS,
11 Plaintiff,
12 vs.
13 STARBUCKS CORPORATION, a
Washington Corporation, and DOES 1-
14 50,
15 Defendants.

No. CV 157104

COMPLAINT FOR DAMAGES
ARISING FROM:

1. PREGNANCY DISCRIMINATION;
2. GENDER DISCRIMINATION;
DEMAND FOR JURY TRIAL
3. DISABILITY DISCRIMINATION
4. FAILURE TO ENGAGE THE
INTERACTIVE PROCESS

16
17 COMES NOW Plaintiff EMILEE CASS and complains against
18 Defendants, and each of them, and for causes of action alleges:
19
20 / / /
21 / / /
22

GENERAL ALLEGATIONS
ALLEGING JURISDICTION AND VENUE

1. Plaintiff is informed and believes and thereupon alleges that at all pertinent times mentioned in this complaint, Defendant STARBUCKS CORPORATION (herein after referred to as "STARBUCKS") is a Washington corporation, qualified to do business in the State of California and doing business in the County of Santa Cruz, State of California.

2. At all pertinent times mentioned in this complaint the Plaintiff was employed by Defendant STARBUCKS in, State of California, and the violations alleged herein occurred in Santa Cruz County, State of California.

3. Plaintiff is ignorant of the true names and capacities of the Defendants sued herein under the fictitious names DOES 1 through 50, Inclusive. Plaintiff will seek leave to amend her complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and herein alleges that each of the Doe Defendants was responsible in some manner for the occurrences and injuries alleged in this complaint.

4. At all times mentioned, unless otherwise stated, each Defendant was the agent and/or employee of each and every co-Defendant, and in performing the things, acts, or omissions, hereinafter more fully alleged, was acting within the scope and authority of said agency and/or employment.

5. Each of the Defendants authorized, ratified and/or condoned the actions and omissions of each and every other Defendant.

1 ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

2 6. Defendant STARBUCKS hired Plaintiff on June 19, 2006 as an
3 assistant manager.

4 7. Plaintiff was told she would receive training to be an assistant
5 manager.

6 8. At the time of hire, Plaintiff informed several of her interviewers
7 that she was pregnant.

8 9. Plaintiff began her employment at the Sunnyvale-Saratoga store,
9 where her supervisor regarded Plaintiff's job performance as acceptable.

10 10. Plaintiff was then transferred to a Scotts Valley store, located at
11 219 Mt. Herman Road, Scotts Valley, California, 95066.

12 11. As Plaintiff's pregnancy progressed, it became difficult for Plaintiff
13 to move as quickly as her non-pregnant coworkers.

14 12. Plaintiff's Store Manager, Kathy Vucinich, refused to train Plaintiff
15 properly as an assistant store manager. When a non-pregnant trainee was
16 hired, Ms. Vucinich took the time to adequately provide hands on training for
17 that new employee.

18 13. Despite Ms. Vucinich's refusal to properly train Plaintiff and Ms.
19 Vucinich's approval of other supervisors completing Plaintiff's assistant
20 manager tasks, Ms. Vucinich blamed Plaintiff for mistakes when the duties
21 were not completed in a manner satisfactory to Ms. Vucinich's standards.

1 14. On October 19, 2006, Ms. Vucinich gave Plaintiff a Performance
2 Action Plan, which required improvement within ninety (90) days.

3 15. However, because Plaintiff was scheduled to give birth within the
4 ninety (90) day time frame, it would not be possible for Plaintiff to fulfill the
5 requirements.

6 16. Moreover, one of the task failures, allegedly attributable to Plaintiff,
7 occurred while Plaintiff was not in the store and while Plaintiff was not
8 scheduled to work.

9 17. Plaintiff then obtained a doctor's note requesting an
10 accommodation of tolerance from Plaintiff's supervisors, as Plaintiff had
11 undergone a physical change due to her pregnancy at 36 weeks and was not as
12 nimble as someone who was not pregnant.

13 18. Defendant STARBUCKS refused this request and on October 28,
14 2006, Plaintiff was terminated for the stated reason that she was not
15 performing her job duties quickly enough.

16 19. Plaintiff received a "Right to Sue" letter on March 27, 2007.
17 Therefore, Plaintiff has exhausted her administrative remedies.

FIRST CAUSE OF ACTION

PREGNANCY DISCRIMINATION

(Violation of Government Code § 12940, ET seq.)

1 As a first, separate and distinct cause of action, Plaintiff complains
2 against Defendants and each of them and DOES 1 through 50, and each of
3 them, and for a cause of action alleges:

4 20. Plaintiff hereby incorporates by reference Paragraphs 1 through 19
5 of the Complaint as if fully set forth herein:

6 21. California Government Code §12940, et seq. provides that it shall
7 be an unlawful employment practice "for an employer, because of the physical
8 disability...medical condition...sex of any person...to discharge the person from
9 employment. California Government Code §12926(p) further states that, "sex
10 includes but is not limited to, pregnancy, childbirth, or medical conditions
11 related to pregnancy or childbirth." Defendants, and each of them,
12 discriminated against Plaintiff because Plaintiff was pregnant by committing
13 the things, acts, and omissions herein alleged.

14 22. Similarly situated non-pregnant employees were not treated in the
15 disparate manner in which Plaintiff was treated. In discriminating against
16 Plaintiff on account of sex, these defendants, and each of them, have violated
17 Government Code § 12940(a).

18 23. As a direct and proximate result of the conduct of these
19 Defendants, and each of them, Plaintiff has suffered emotional anguish and
20 distress, loss of income and benefits, and other special and general damages,
21 all in an amount to be proven at trial.

22

1 24. In doing the things herein alleged, the conduct of these
2 Defendants, and each of them was despicable and these Defendants, and each
3 of them, acted towards Plaintiff with malice, oppression, fraud, and with a
4 willful and conscious disregard of Plaintiff's rights. Each of the defendants
5 ratified, authorized and condoned the conduct of each and every other
6 Defendant and managing agent, entitling Plaintiff to an award of punitive and
7 exemplary damages pursuant to California Civil Code § 3294 and Government
8 Code § 12940.

9 25. Pursuant to Government Code §12965(b), Plaintiff requests the
10 award of attorney's fees against these Defendants, and each of them.

11 WHEREFORE, Plaintiff requests relief as hereinafter provided..

12 **SECOND CAUSE OF ACTION**

13 **GENDER DISCRIMINATION**

14 **(Violation of Government Code §12940)**

15 As a second, separate and distinct cause of action, Plaintiff complains
16 against Defendants and each of them and DOES 1 through 50, and each of
17 them, and for a cause of action alleges:

18 26. Plaintiff hereby incorporates by reference Paragraphs 1 through 25
19 of the Complaint as if fully set forth herein.

20 27. Government Code §12940 prohibits an employer from
21 discriminating against any employee because of that employee's sex. California

1 Government Code § 12926(p) defines sex as "includes but is not limited to, a
2 person's gender, as defined in Section 422.56 of the Penal Code." Defendants,
3 and each of them, discriminated against Plaintiff because of Plaintiff's sex by
4 performing the things, acts, and omissions herein alleged.

5 28. Similarly situated male employees were not treated in the disparate
6 manner in which Plaintiff was treated. In discriminating against Plaintiff on
7 account of sex, these defendants, and each of them, have violated Government
8 Code § 12940(a).

9 29. As a direct and proximate result of the conduct of these
10 Defendants, and each of them, Plaintiff has suffered emotional anguish and
11 distress, loss of income and benefits, and other special and general damages,
12 all in an amount to be proven at trial.

13 30. In doing the things herein alleged, the conduct of these
14 Defendants, and each of them was despicable and these Defendants, and each
15 of them, acted towards Plaintiff with malice, oppression, fraud, and with a
16 willful and conscious disregard of Plaintiff's rights. Each of the defendants
17 ratified, authorized and condoned the conduct and omissions of each and every
18 other Defendant and managing agent, entitling Plaintiff to an award of punitive
19 and exemplary damages pursuant to California Civil Code § 3294 and
20 Government Code § 12940.

21
22

1 31. Pursuant to Government Code §12965(b), Plaintiff requests an
2 award of attorney's fees against these Defendants, and each of them.

3 WHEREFORE, Plaintiff requests relief as hereinafter provided.

THIRD CAUSE OF ACTION

[DISABILITY DISCRIMINATION]

(Violation of Government Code §12940)

7 As a third, separate and distinct cause of action, Plaintiff complains against
8 Defendants and each of them and DOES 1 through 50, and each of them, and
9 for a cause of action alleges:

10 32. Plaintiff hereby incorporates by reference Paragraphs 1 through
11 31 of the Complaint as if fully set forth herein.

12 33. According to California Government Code §12940, it shall be an
13 unlawful employment practice "for an employer, because of the physical
14 disability...medical condition...to discharge the person from employment."
15 California Code of Regulations §7291.5 states, "it is unlawful for any employ
16 because of pregnancy of an employee...to refuse to accommodate the employ
17 who is temporarily disabled by pregnancy to the same extent that other
18 temporarily disabled employees are accommodated under the employer's
19 policy."

1 34. Defendants, and each of them, discriminated against Plaintiff
2 because of Plaintiff's temporary disability by performing the things, acts, and
3 omissions herein alleged.

4 35. Similarly situated temporarily disabled employees were not treated
5 in the disparate manner in which Plaintiff was treated. In discriminating
6 against Plaintiff on account of disability, these defendants, and each of them,
7 have violated Government Code § 12940(a).

8 36. As a direct and proximate result of the conduct of these
9 Defendants, and each of them, Plaintiff has suffered emotional anguish and
10 distress, loss of income and benefits, and other special and general damages,
11 all in an amount to be proven at trial.

12 37. In doing the things herein alleged, the conduct of these
13 Defendants, and each of them was despicable and these Defendants, and each
14 of them, acted towards Plaintiff with malice, oppression, fraud, and with a
15 willful and conscious disregard of Plaintiff's rights. Each of the defendants
16 ratified, authorized and condoned the conduct and omissions of each and every
17 other Defendant and managing agent, entitling Plaintiff to an award of punitive
18 and exemplary damages pursuant to California Civil Code § 3294 and
19 Government Code § 12940.

20 38. Pursuant to Government Code §12965(b), Plaintiff requests an
21 award of attorney's fees against these Defendants, and each of them.

22

1 WHEREFORE, Plaintiff requests relief as hereinafter provided.

2 **FOURTH CAUSE OF ACTION**

3 **(FAILURE TO ENGAGE THE INTERACTIVE PROCESS TO DETERMINE
4 EFFECTIVE REASONABLE ACCOMODATIONS)**

5 As a fourth, separate and distinct cause of action, Plaintiff complains
6 against all Defendants and DOES 1-50, Inclusive, and each of them and for a
7 cause of action alleges:

8 39. Plaintiff hereby incorporates by reference Paragraphs 1 through 26
9 of the Complaint as if fully set forth herein.

10 40. California Government Code §12940(n) states that it shall be an
11 unlawful employment practice "for an employer...to fail to engage in timely,
12 good faith, interactive process with the employee or applicant to determine
13 effective reasonable accommodations, if any, in response to a request for
14 reasonable accommodation by an employee or applicant with a known medical
15 condition." Defendants, and each of them, failed to engage in a timely, good
16 faith, interactive process with Plaintiff when in response to Plaintiff's request
17 for a reasonable accommodation, Defendant refused to determine effective
18 reasonable accommodations even though Plaintiff's disability and medical
19 condition were known to Defendant. Defendants, and each of them,
20 discriminated against Plaintiff by committing the things, acts, and
21 commissions herein alleged.

1 41. In failing to engage in timely, good faith interactive process with
2 Plaintiff, Defendants and each of them have violated Government Code §
3 12940(n).

4 42. Plaintiff is informed and believes and thereupon alleges that the
5 fictitious Defendants named as DOES 1 through 50, Inclusive, aided, abetted,
6 incited, compelled, coerced or conspired to commit one or more of the acts
7 alleged herein.

8 43. As a direct and proximate result of the conduct of these
9 Defendants and each of them, Plaintiff has suffered emotional anguish and
10 distress, loss of income and benefits and other special and general damages all
11 in an amount to be proven at trial.

12 44. In doing the things herein alleged, the conduct of Defendants, and
13 each of them, is despicable and Defendants, and each of them, acted towards
14 Plaintiff with malice, oppression, fraud, and with a willful and conscious
15 disregard of Plaintiff's rights. Each of the Defendants ratified, authorized and
16 condoned the conduct of each and every other Defendant and managing agent,
17 entitling Plaintiff to an award of punitive and exemplary damages pursuant to
18 California Civil Code § 3294 and Government Code § 12940.

19 45. Pursuant to Government Code §12965(b), Plaintiff requests the
20 award of attorney's fees against Defendants, and each of them.

21
22

PRAYER

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as follows:

4 1. For a money judgment representing compensatory damages
5 including lost wages, earnings, retirement benefits and other employee benefits,
6 and all other sums of money, together with interest on these amounts,
7 according to proof;

8 2. For a money judgment for mental pain and anguish and emotional
9 distress, according to proof;

10 3. For an award of exemplary and punitive damages, according to
proof.

4. For costs of suit and attorney's fees:

12 5. For pre-judgment and post-judgment interest; and

13 6. For such other and further relief as the court deems just and
14 proper.

DEMAND FOR JURY TRIAL

16 Plaintiff hereby demands a jury trial on all of the issues.

17
18 Dated: 5/11, 2007 HINKLE, JACHIMOWICZ, POINTER & EMANUEL

AMY CARLSON
Attorney for Plaintiff
EMILEE CASS

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CRUZ 701 Ocean Street Santa Cruz, CA, 95060		<i>For Court Use Only</i>
PLAINTIFF: EMILEE CASS		F I L E D
DEFENDANT: STARBUCKS CORPORATION		MAY 15 2007
CASE MANAGEMENT INFORMATION AND SETTING		ALEX CALVO, CLERK BY MICHELLE IRIS DEPUTY, SANTA CRUZ COUNTY
		CASE NO: CISCV157104

This case is in Santa Cruz County's Case Management Program. It is the duty of each party to be familiar with the California rules of court and the date, time and place of the first case management conference.

This notice must be served with the summons on all defendants and cross-defendants. Notice of any other pending case management conference must be served on subsequently named defendants and cross-defendants.

ATTENTION DEFENDANT: YOU HAVE 30 DAYS AFTER THE SUMMONS IS SERVED ON YOU TO FILE A RESPONSE TO THE COMPLAINT. THE DATE BELOW DOES NOT EXTEND THE TIME TO FILE A RESPONSE. SEE THE SUMMONS FOR INSTRUCTIONS FOR RESPONDING TO THE SUMMONS AND COMPLAINT.



The first Case Management Conference hearing date is:

Date: 09/12/07

Time: 8:29

Department No.: 9

Telephonic court appearances are provided through CourtCall to the court. To make arrangements to appear at the Case Management Conference by telephone, please call the program administrator for CourtCall at (310) 572-4670 or (888) 882-6878 at least five (5) court days prior to the hearing. DO NOT CALL THE COURT.

THE LAWYER'S PLEDGE

In order to raise the standards of civility and professionalism among counsel and between the Bench and the Bar, I hereby pledge the following:

1. To at all times comply with the California Rules of Professional Conduct;
2. To honor all commitments;
3. To be candid in all dealings with the court and counsel;
4. To uphold the integrity of our system of justice and not compromise personal integrity for the sake of a client, case or cause;
5. To seek to accomplish the client's legitimate goals by the most efficient and economical methods possible;
6. To act in a professional manner at all times, to be guided by a fundamental sense of fair play in all dealings with counsel and the court, and to be courteous and respectful to the court;
7. To be on time;
8. To be prepared for all court appearances - to be familiar with all applicable court rules;
9. To adhere to the time deadlines set by statute, rule, or order;
10. To avoid visual displays of pique in response to rulings by the court;
11. To discourage and decline to participate in litigation or tactics that are without merit or are designed primarily to harass or drain the financial resources of the opposing party;
12. To avoid any communications with the Judge concerning a pending case unless the opposing party or lawyer is present, or unless permitted by court rules or otherwise authorized by law;
13. To refrain from impugning the integrity of the judicial system, its proceedings, or its members;
14. To treat all court personnel with the utmost civility and professionalism;
15. To remember that conflicts with opposing counsel are professional and not personal - vigorous advocacy is not inconsistent with professional courtesy;
16. To refrain from derogatory statements or discriminatory conduct on the basis of race, religion, gender, sexual orientation or other personal characteristic;
17. To treat adverse witnesses and litigants with fairness and due consideration;
18. To conduct discovery proceedings as if a judicial officer were present;
19. To meet and confer with opposing counsel in a genuine attempt to resolve procedural and discovery matters;
20. To not use discovery to harass the opposition or for any other improper purpose;
21. To not arbitrarily or unreasonably withhold consent to a just and reasonable request for cooperation or accommodation;
22. To not attribute to an opponent a position not clearly taken by that opponent;
23. To avoid unnecessary "confirming" letters and to be scrupulously accurate when making any written confirmation of conversations or events;
24. To not propose any stipulation in the presence of the trier of fact unless previously agreed to by the opponent;
25. To not interrupt the opponent's legal argument;
26. To address opposing counsel, when in court, only through the court;
27. To not seek sanctions against or disqualification of another lawyer to attain a tactical advantage or for any other improper purpose;
28. To not schedule the service of papers to deliberately inconvenience opposing counsel;
29. To refrain, except in extraordinary circumstances, from using the fax machine to demand immediate responses for opposing counsel.

CM-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):		FOR COURT USE ONLY
TELEPHONE NO.: EMAIL ADDRESS (Optional): ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:		
CASE MANAGEMENT STATEMENT (Check one): <input type="checkbox"/> UNLIMITED CASE <input type="checkbox"/> LIMITED CASE (Amount demanded exceeds \$25,000) (Amount demanded is \$25,000 or less)		CASE NUMBER:
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: _____ Time: _____ Dept: _____ Div: _____ Room: _____ Address of court (if different from the address above):		

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. Party or parties (answer one):
 - a. This statement is submitted by party (name): _____
 - b. This statement is submitted jointly by parties (names): _____
2. Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)
 - a. The complaint was filed on (date): _____
 - b. The cross-complaint, if any, was filed on (date): _____
3. Service (to be answered by plaintiffs and cross-complainants only)
 - a. All parties named in the complaint and cross-complaint have been served, or have appeared, or have been dismissed.
 - b. The following parties named in the complaint or cross-complaint
 - (1) have not been served (specify names and explain why not): _____
 - (2) have been served but have not appeared and have not been dismissed (specify names): _____
 - (3) have had a default entered against them (specify names): _____
 - c. The following additional parties may be added (specify names, nature of involvement in case, and the date by which they may be served): _____
4. Description of case
 - a. Type of case in complaint cross-complaint (describe, including causes of action): _____

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [Indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request a jury trial a nonjury trial (If more than one party, provide the name of each party requesting a jury trial):

6. Trial date

- a. The trial has been set for (date):
- b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (If not, explain):

c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

- a. days (specify number):
- b. hours (short causes) (specify):

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

e. Fax number:

f. E-mail address:

g. Party represented:

Additional representation is described in Attachment B.

9. Preference

This case is entitled to preference (specify code section):

10. Alternative Dispute Resolution (ADR)

- a. Counsel has has not provided the ADR Information package identified in rule 201.9 to the client and has reviewed ADR options with the client.
- b. All parties have agreed to a form of ADR. ADR will be completed by (date):
- c. The case has gone to an ADR process (indicate status):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

10. d. The party or parties are willing to participate in (check all that apply):

- (1) Mediation
- (2) Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to close 15 days before arbitration under Cal. Rules of Court, rule 1612)
- (3) Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to remain open until 30 days before trial; order required under Cal. Rules of Court, rule 1612)
- (4) Binding judicial arbitration
- (5) Binding private arbitration
- (6) Neutral case evaluation
- (7) Other (specify):

- e. This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory limit.
- f. Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
- g. This case is exempt from judicial arbitration under rule 1601(b) of the California Rules of Court (specify exemption):

11. Settlement conference

- The party or parties are willing to participate in an early settlement conference (specify when):

12. Insurance

- a. Insurance carrier, if any, for party filing this statement (name):
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (explain):

13. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case, and describe the status.

- Bankruptcy Other (specify):

Status:

14. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.
 - (1) Name of case:
 - (2) Name of court:
 - (3) Case number:
 - (4) Status:
- Additional cases are described in Attachment 14a.
- b. A motion to consolidate coordinate will be filed by (name party):

15. Bifurcation

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons):

16. Other motions

- The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):